



PUBLIC NOTICE

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DA No. 09-2188

Report No. SCL-00094

Thursday October 8, 2009

ACTIONS TAKEN UNDER CABLE LANDING LICENSE ACT

Section 1.767(a) Cable Landing Licenses, Modifications, and Assignments or Transfers of Control of Interests in Cable Landing Licenses (47 C.F.R. § 1.767(a))

By the Chief, Policy Division, International Bureau:

Pursuant to An Act Relating to the Landing and Operation of Submarine Cables in the United States, 47 U.S.C. §§ 34-39 (Cable Landing License Act), Executive Order No. 10530, Exec. Ord. No. 10530 reprinted as amended in 3 U.S.C. § 301, and section 1.767 of the Commission's rules, 47 C.F.R. § 1.767, the following applications ARE GRANTED. These grants of authority are taken under section 0.261 of the Commission's rules, 47 C.F.R. § 0.261. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of this public notice.

This public notice serves as each cable landing licensee's Cable Landing License, or modification thereto, pursuant to the Cable Landing License Act and sections 1.767 and 1.768 of the Commission's rules. Cable landing licensees should review carefully the terms and conditions of their licenses. Failure to comply with these terms and conditions or relevant Commission rules and policies could result in fines or forfeitures.

The Commission most recently amended its rules applicable to submarine cable landing licenses in Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, FCC 01-332, 16 FCC Rcd 22167 (2001), 67 Fed. Reg. 1615 (Jan. 14, 2002). An updated version of sections 1.767 and 1.768 of the rules is available at <http://www.fcc.gov/ib/pd/pf/telecomrules.html>. See also http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-02-598A1.pdf for a March 13, 2002 Public Notice; http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-01-332A1.pdf for the December 14, 2001 Report and Order.

Acceptability for Filing Public Notice: The Application was placed on Public Notice on June 18, 2008. See GU Holdings, Inc. Application for Authority to Land and Operate a Non-Common Carrier Fiber-Optic Submarine Cable System, the Unity Cable System, between the United States and Japan, File No. SCL-LIC-20080516-00010, Public Notice, Streamlined Submarine Cable Landing License Applications Accepted for Filing, Report No. SCL-00066S (Int'l Bur., June 18, 2008). No comments or oppositions were filed in response to the Public Notice.

The Application has been coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 C.F.R. §1.767(b), and consistent with procedures established with the Department of State. See Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Report and Order, 16 FCC Rcd 22167, 22192-93, paras. 51-52 (2001) (Submarine Cable Landing License Report and Order); Streamlined Procedures for Executive Branch Review of Submarine Cable Landing License Requests, State Department Media Note (Revised) (rel. Dec. 20, 2001) available at <http://www.state.gov/r/pa/prs/ps/2001/6951.htm>. The Department of Homeland Security filed a Petition to Adopt Conditions to Authorizations and Licenses on September 23, 2009.

Action Taken: Grant of Cable Landing License to GU Holdings Inc. et al. for the purpose of landing and operating a non-common carrier fiber-optic submarine cable system, the Unity Cable System, between the United States and Japan. The cable system will have landing stations in Chikura, Japan and Hermosa Beach, California.

Licensee Information: The Applicants for the cable landing license for the Unity Cable System are: (1) GU Holdings Inc. ("GU Holdings"); (2) Bharti Airtel Limited ("Bharti Airtel"); (3) Global Transit Limited ("Global Transit"); (4) KDDI Corporation ("KDDI"); (5) Pacnet Services (USA) Inc. ("Pacnet"); and, (6) Singapore Telecom USA Inc. ("SingTel USA") (collectively, "Applicants").

The Unity Cable System will be owned, operated and maintained pursuant to a Joint Building Agreement, executed in February 2008 by: (1) Pacnet, 40% equity and voting interests; (2) GU Holdings, 20% equity and voting interests; (3) Bharti Airtel, 10% equity and voting interests; (4) Global Transit, 10% equity and voting interests; (5) KDDI, 10% equity and voting interests; and, (6) Singapore Telecommunications Limited ("SingTel"), the parent of SingTel USA, 10% equity and voting interests (collectively, "Unity Parties"). (SingTel USA will own Singtel's interests in the portions of the Unity Cable System located in U.S. territorial waters.) The Executive Committee, comprised of one representative from each of the Unity Parties, will manage the common infrastructure including directing the engineering, construction, operation and maintenance of the Unity Cable System. Decisions of the Executive Committee will be by consensus or simple majority, except for certain major actions that will require a super-majority vote or unanimity.

GU Holdings is an indirect subsidiary of Google Inc. formed for the purposes of developing the Unity Cable System. GU Holdings is wholly owned by Google International LLC, which in turn is wholly owned by Google Inc. The following U.S. citizens hold a 10 percent or greater voting or equity interest in Google Inc.: Eric Schmidt (12.4% of Class B common stock, 9.4% voting); Larry Page (38.0% of Class B common stock, 29.0% voting); and Sergey Brin (37.3% of Class B common stock, 28.5% voting). No other individual or entity has a 10 percent or greater direct or indirect equity or voting interest in Google Inc.

Bharti Airtel is organized under the laws of India. Bharti Telecom Limited, also an Indian company, holds a 45.31% equity and voting interest and exercises managerial control over Bharti Airtel. Pastel Limited, a Mauritian company, holds a 15.58% equity and voting interest in Bharti Airtel. The remaining shares of Bharti Airtel are traded publicly on the National Stock Exchange of India Limited and The Stock Exchange, Mumbai.

The following persons or entities have a 10 percent or greater indirect ownership interest in Bharti Airtel through Bharti Telecom Limited: Bharti Infotel Private Limited (16.61% equity and 36.65% voting); Bharti Enterprises (18.42% equity and 50.27% voting); Macritchie Investment Pte Ltd (4.99% equity and 11.01% voting) and the Mittal Family (18.42% equity and 50.27% voting). Bharti Infotel Private Limited, Bharti Enterprises, and Macritchie Investment Pte Ltd are organized under the laws of India, and the Mittal Family members are citizens of India.

In addition to its direct holdings in Bharti Airtel, Pastel Limited has an indirect interest through its 32.81% interest in Bharti Telecom Limited. Pastel Limited thus has a 30.45% direct and indirect equity and a 48.39% voting interest in Bharti Airtel (15.58% through Pastel Limited's direct ownership interest in Bharti Airtel and 14.87% through Pastel Limited's ownership interest in Bharti Telecom Limited. Pastel Limited is wholly owned by Singapore Telecommunications Limited. Consequently, SingTel has a 30.45% indirect equity and 48.39% indirect voting interest in Bharti Airtel. No other individual or entity has a 10 percent or greater direct or indirect equity or voting interest in Bharti Airtel.

Global Transit is a Malaysian company. The following entities have a 10 percent or greater direct ownership interest in Global Transit: (1) Megawisra Sdn Bhd, also a Malaysian entity (42.9%); Halfmoon Bay Capital Limited ("Halfmoon Bay"), a British Virgin Islands entity (20.46%); Accurate Gain Profits Limited, a British Virgin Islands entity (12.27%); Continuum Capital Sdn Bhd, a Malaysian entity (12.27%); and, Nicholas Ping LIM, a Malaysian citizen (12.1%).

The following persons or entities have a 10 percent or greater indirect ownership interest in Global Transit through Megawisra Sdn Bhd: Megawisra Investment Ltd. (42.9%); Afzal Abdul Rahim (32.2%); and, Gan Te-Shen (10.7%). The following persons or entities have a 10 percent or greater indirect ownership interest in Global Transit through Halfmoon Bay: Nik Anida Bte Nik Mansho (13.6%). The following persons or entities have a 10 percent or greater indirect ownership interest in Global Transit through Continuum Capital Sdn Bhd: Pulau Tiga Ventures Sdn Bhd (12.27%); Khazanah Nasional Berhad (12.27%); the Government of Malaysia (12.27%).

KDDI is organized under the laws of Japan. Kyocera Corporation holds a 12.83% ownership interest and Toyota Motor Corporation holds an 11.14% ownership interest in KDDI. Kyocera and Toyota are both publicly-traded, widely-held Japanese corporations. No other individual or entity has a 10 percent or greater direct or indirect equity or voting interest in KDDI.

Pacnet is a wholly-owned subsidiary of Pacnet Global Corporation (S) Pte. Ltd., a Singapore company, which in turn is a wholly-owned subsidiary of Pacnet Services Corporation Ltd., a Bermuda company, which in turn is a wholly-owned subsidiary of Pacnet Limited, a Bermuda company. Pacnet International Limited has an 88.869% direct ownership interest in Pacnet Limited and is also a Bermuda company. The remaining 11.131% ownership interest in Pacnet Limited is held by various other funds, none of which has a 10% or greater ownership interest

The following entities hold a 10 percent or greater indirect ownership interest in Pacnet through Pacnet International Limited: (1) The Ashmore Group (51.233%), with two funds holding a 10% or greater interest in Pacnet International: Asset Holder PCC Limited (Re Ashmore Emerging Markets Liquid Investments Portfolio), incorporated in Guernsey (10.732%), and Asset Holder PCC No. 2 Limited (Re Ashmore Asian Recovery Fund) incorporated in Guernsey (13.728%); (2) The Spinnaker Group (35.307%), with one fund holding a 10% or greater interest in Pacnet International: HSBC Custody Services (Guernsey) Ltd., as sub-custodian and agent for Spinnaker Global Emerging Markets Fund Ltd, a company incorporated in the British Virgin Islands (19.953%); and, (3) Clearwater Undersea Cable Investments, L.P., a Cayman Islands limited partnership (13.460%). No other individual or entity has a 10 percent or greater direct or indirect equity or voting interest in Pacnet Services (USA) Inc.

Pacnet is affiliated with carriers in Japan, but it states that its affiliates do not have market power in Japan.

SingTel USA is a wholly-owned subsidiary of Singapore Telecommunications Limited ("SingTel"), which is incorporated under the laws of the Republic of Singapore. Temasek Holdings (Private) Limited ("Temasek Holdings"), a Singapore investment house, holds a 55.96% interest in SingTel (54.14% direct and 1.82% indirect). Temasek Holdings is wholly owed by the Minister of Finance, Inc., a corporation created by the Minister for Finance (Incorporation) Act to engage in certain commercial activities on behalf of the Government of Singapore. Minister of Finance, Inc. is controlled by the Minister of Finance of the Government of Singapore. No other individual or entity has a 10 percent or greater direct or indirect equity or voting interest in SingTel.

SingTel USA is affiliated with a carrier in Japan, but it states that its affiliate does not have market power in Japan.

Cable Design and Capacity: The proposed Unity Cable System will be a non-common carrier fiber-optic submarine cable system, between the United States and Japan. The system will have landing stations in Chikura, Japan and Hermosa Beach, California. The Unity Cable System will initially consist of 5 fiber pairs, with a total capacity of 4.8 Terabits per second (Tbps). The system can be expanded to a total of 8 fiber pairs with total capacity of up to 7.68 Tbps. The individual parties will own and manage fiber pairs: Pacnet will have two fiber pairs; GU Holdings will have one fiber pair; and, Bharti Airtel, Global Transit, KDDI, and SingTel will each have one-half (0.5) fiber pair.

The primary Network Operations Center ("NOC") for the Unity Cable System will be located in Singapore and managed by SingTel. The Singapore NOC will have primary responsibility for the operation and administration of those portions of the cable system located outside the United States and will have secondary responsibility for those portions located in U.S. territory. A second, fully redundant NOC will be located in the United States and will be controlled by GU Holdings. The U.S. NOC will have primary responsibility for the operation and administration of those portions of the Unity Cable System located in U.S. territory and will have secondary responsibility for those portions located outside the United States.

Cable Landing Point Arrangements: The Unity Cable System will land in two locations: Chikura, Japan and Hermosa Beach, California. KDDI owns and operates the landing and terminal facilities in the Chikura landing station, where individual Parties may connect their capacity to Japan's domestic network or other international cable systems. GU Holdings will be the U.S. landing party and the Unity Cable System will terminate at a Point of Presence to be located in Los Angeles, California.

Regulatory Status of Cable: The Applicants propose to operate the Unity Cable System on a non-common carrier basis. They state that there are sufficient existing or planned facilities on the route or on alternative routes to prevent it from exercising market power. They also state that capacity will not be sold indifferently to the user public, but will be used by the Unity Parties and offered to other carriers on terms tailored to their particular needs.

Applicants have provided information and demonstrated that the proposed operation of the cable on a non-common carrier basis satisfies the requirements set forth in National Association of Regulatory Utility Commissioners v. FCC, 525 F.2d 630, 642 (D.C. Cir 1976) (NARUC I), cert. denied, 425 U.S. 992 (1976). See also Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22202-22203, paras. 69-70; Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Notice of Proposed Rulemaking 15 FCC Rcd 20789, 20815-20818, paras. 62-67.

Conditions and Requirements: Applicants shall comply with the routine conditions set out in section 1.767(g)(1)-(14) of the Commission's rules, 47 C.F.R. § 1.767(g)(1)-(14), and with the requirements of section 1.768 of the Commission's rules, 47 C.F.R. § 1.768 (notifications and prior approval for submarine cable landing licensees that are or propose to become affiliated with a foreign carrier).

KDDI is affiliated with carriers in Japan, a World Trade Organization member, and agrees to accept and abide by the reporting requirements in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l), for the U.S.-Japan route.

We grant the Petition to Adopt Conditions to Authorizations and Licenses (Petition) filed in this proceeding on September 23, 2009 by the Department of Homeland Security. Accordingly, we condition grant of this application on GU Holdings, Inc. and its affiliates abiding by the commitments and undertakings contained in the September 21, 2009, Agreement with the Department of Homeland Security (September 21, 2009 Agreement). A copy of the Petition and the September 21, 2009 Agreement are publicly available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching for SCL-LIC-20080516-00010 and accessing "Other filings related to this application" from the Document Viewing area.
